



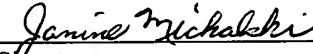
DOCKET NO: S1404.70004US01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David Spencer
Serial No: 10/766,298
Confirmation No: Not Yet Assigned
Filed: January 27, 2004
For: SORTING PIECES OF MATERIAL BASED ON PHOTONIC
EMISSIONS RESULTING FROM MULTIPLE SOURCES OF STIMULI
Examiner: Not Yet Assigned
Art Unit: Not Yet Assigned

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 11th day of May, 2004.



Signature

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing date of a first Office Action on the merits in the above-identified case.

No fee is required.

PART III: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>
10/364,783	02-11-2003	Sommer, Jr.

[NOTE TO PRACTITIONERS - Must provide a copy of any pending U.S. application, even if it was previously submitted to or cited by the U.S. Patent Office in an earlier application, unless the earlier application is identified herein and is relied upon for an earlier filing date under 35 U.S.C. §120, and the copy was provided in the earlier application.]

PART V: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

Serial No.: 10/766,298

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Art Unit: Not Yet Assigned

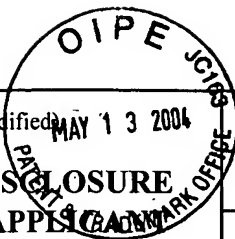
An early and favorable action is hereby requested.

Respectfully submitted,
David Spencer, *Applicant*

By: 

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Docket No. S1404.70004US01
Date: May 11, 2004
XNDDX



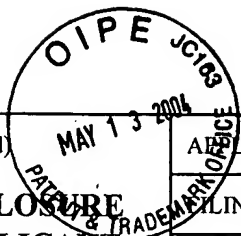
FORM PTO-1449/A and B (Modified)		APPLICATION NO.: 10/766,298	ATTY. DOCKET NO.: S1404.70004US01
INFORMATION DISCLOSURE STATEMENT BY APPLICANT		FILING DATE: January 27, 2004	CONFIRMATION NO.: Not Yet Assigned
		APPLICANT: David Spencer	
		GROUP ART UNIT: Not Yet Assigned	EXAMINER: Not Yet Assigned
Sheet	1	of	2

U.S. PATENT DOCUMENTS

Examiner's Initials	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
	A1*	3,937,953		Stafford R. Wayne et al.	02-10-1976
	A2*	4,317,521		Clark et al.	03-02-1982
	A3*	4,606,760		Fritz et al.	08-09-1986
	A4*	4,655,437		Fritz et al.	04-07-1987
	A5*	4,834,870		Osterberg et al.	05-30-1989
	A6*	4,848,590		Kelly	07-18-1989
	A7*	4,869,811		Wolanski et al.	09-26-1989
	A8*	5,060,871		Brassinga et al.	10-29-1991
	A9*	5,236,092		Krotkov et al.	08-17-1993
	A10*	5,260,576		Sommer, Jr. et al.	11-09-1993
	A11*	5,418,826		Sato et al.	05-1995
	A12*	5,424,959		Reyes et al.	06-1995
	A13*	5,520,290		Kumar et al.	05-28-1996
	A14*	5,570,406		Komatani	10-1996
	A15*	5,663,997		Willis et al.	09-02-1997
	A16*	5,676,256		Kumar et al.	10-14-1997
	A17*	5,738,224		Sommer, Jr. et al.	04-14-1998
	A18*	5,902,177		Tessier et al.	05-11-1999
	A19*	5,931,308		Gesing et al.	08-03-1999
	A20*	6,266,390		Sommer, Jr. et al.	07-24-2001
	A21*	6,519,315	B2	Sommer, Jr. et al.	02-11-2003
	A22*	6,545,240	B2	Kumar	04-08-2003

FOREIGN PATENT DOCUMENTS

Examiner's Initials	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document (not necessary)	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/Country	Number	Kind Code			
	B1	WO	99/61671			02-12-1999	
	B2	WO	01/21317	A1		03-29-2001	
	B3	WO	02/50521	A2		06-27-2002	
	B4	CA	1073408			03-11-1980	
	B5	CA	702,263			01-19-1965	
	B6	CA	897800			04-11-1972	
	B7	CA	923601			03-27-1973	
	B8	JA	10-216651			08-18-1998	N



FORM PTO-1449/A and B (Modified)		APPLICATION NO.: 10/766,298	ATTY. DOCKET NO.: S1404.70004US01
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		APPLICANT: David Spencer	
		GROUP ART UNIT: Not Yet Assigned	EXAMINER: Not Yet Assigned
Sheet	2	of	2

OTHER ART — NON PATENT LITERATURE DOCUMENTS

Examiner's Initials	Cite No	Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)
	C1	Yin L. et al, "A Pattern Recognition Approach in x-ray fluorescence analysis" nuclear Instruments & Methods in Physics Research, Section - A: Accelerators, Spectrometers, Detectors and Associated Equipment, NL, North-Holland Publishing Co., Amsterdam, Vol. A277, no. 2/3 + index, 1 May 1989, pgs 619-626	
	C2	Patent Abstracts of JAPAN, Vol. 1998, no. 13, 30 Nov. 1998; JP 10 216651 A (Ishikawajima Harima Heavy Ind Co. Ltd), 18 Aug 1998	
	C3	TN Spectrace, "Alloy Analyzer: Lightweight and portable, the TN Alloy Analyzer is a non-destructive, easy-to-use and accurate alloy identification and analysis tool" advertisement, 1992 (2 sheets)	
	C4	TN Technologies, "Alloy Analysis" Application Information Form, July 1997 (2 pages)	
	C5	Norman F. Johnson, "Replacing antiquated acid spot testing with a portable metal analyzer" <u>American Laboratory News Edition</u> , June 1991 (4 pages)	
	C6	TN Technologies, "The Metallurgist Pro" advertisement, 12/98 (2 pages)	
	C7	Niton Corporation, "Are you losing money selling too many loads of unsorted scrap?" flyer for the Alloy Analyzer (1 page)	
	C8	Niton Corporation, "Niton Alloy Analyzer" advertisement (2 pages)	
	C9	Arun Technology, Inc., A Roxboro Group Company, "The New Metalsort 1610" order form (1 page)	
	C10	Arun Technology, Inc., "Bangs or Bucks" mailer for the Metalscan 1650 and Metalscan 2000 (2 pages)	
	C11	TN Technologies, "Metals Sorting & Analysis" advertisement for the Metallurgist Pro (2 pages)	
	C12	TN Spectrace, "Power Solutions for Materials Analysis" booklet for Metallurgist® (8 pages)	
	C13	TN Spectrace, "Metallurgist® System Specifications," information sheet (1 page)	
	C14	Niton Corporation, "Leader in Portable XRF Technology" information booklet regarding the XL-309 Spectrum Analyzer Lead Detector and the 700 series Multi-Element Spectrum Analyzer (8 pages)	
	C15	TN Technologies, "Metallurgist Pro: Alloy Analysis and Metal Sorting" advertisement in <u>Recycling Today</u> , p. 68 November 1997 (1 page)	
	C16	Spectro Analytical Instruments, "The Profit Machine" advertisement in <u>Recycling Today</u> , p. 69, November 1997 (1 page)	
	C17	9266 Alloy Analyzer, Full Library Alloy List (Version S) Alphabetical and Table 4.2A Abbreviated Library Alloy List Alphabetical (2 pages)	
	C18	9277 Metallurgist-XR, Table 1A Alloy Library Categorized List (2 pages)	
EXAMINER			DATE CONSIDERED

#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

*a copy of this reference is not provided in accordance with the waiver notice of July 11, 2003 from the Patent and Trademark Office.